

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/808,225	SCHUBERT, WALTER	
	<b>Examiner</b>	<b>Art Unit</b>	
	Khatol S. Shannan-Shah	1645	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendments of 1/19/2005.
2. ☒ The allowed claim(s) is/are 1-13.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |  |
|---|--|
| <ol style="list-style-type: none"> <li>1. <input type="checkbox"/> Notice of References Cited (PTO-892)</li> <li>2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</li> <li>3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br/>Paper No./Mail Date _____</li> <li>4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br/>of Biological Material</li> </ol> | <ol style="list-style-type: none"> <li>5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</li> <li>6. <input type="checkbox"/> Interview Summary (PTO-413),<br/>Paper No./Mail Date _____</li> <li>7. <input type="checkbox"/> Examiner's Amendment/Comment</li> <li>8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance</li> <li>9. <input type="checkbox"/> Other _____</li> </ol> |
|---|--|

***Attachment to notice of allowance***

1. Applicant's Notice of appeal filed 01/19/2005 is acknowledged.
2. Applicant's amendment after notice of appeal filed 01/19/2005 is acknowledged.

The amendment has been entered. Claims 5, 7 and 9 have been amended. The amendments have support in the specification and no new matter has been presented. Specification page 1 has been amended to remove a certificate of mailing stamp.

3. Applicant's terminal disclaimers filed 01/19/2005 are acknowledged. The terminal disclaimers have been approved by the office.

***Status of the Claims***

4. Claims 1-13 are pending and under consideration.

***Objections/Rejections Withdrawn***

5. Objection to the specification in regard to express mail sticker made in paragraph 5, of the office action mailed 10/01/03 is withdrawn in view of applicant's amendment.
6. Rejections of claims 1-13 under judicially created doctrine of obviousness –type double patenting, made in paragraphs 8 and 9 of the office action mailed 10/01/03 are withdrawn. Applicant has filed two terminal disclaimers to overcome these rejections.

***Reason for Allowance***

7. Claims 1-13 are allowed.

The following is an examiner's statement of reasons for allowance:

Claims are drawn to:

A process for identifying and enriching cell-specific target structures, for the

identification of cell specific protein combination patterns on a surface of cells and for enriching such cells, wherein said process comprises the following steps:

- (a) depositing a heterogeneous cell mixture on one or plural surfaces with predefined structure, causing cells with corresponding target structures to become bound to such surface(s);
- (b) removing any non-binding cells of said cell mixture from said surface (s);
- (c) identifying the cell-specific target structures responsible for the binding of the cells to said surface (s);
- (d) selecting and enriching cells with identical cell specific target structures on said surface (s); and
- (e) biochemically characterizing the target structures selected in step (d).

The prior art fails to teach such process and its particular steps.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

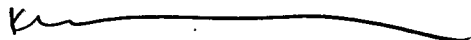
### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khatol S. Shahnian-Shah whose telephone number is (571)-272-0863. The examiner can normally be reached on 7:30am-4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynette F. Smith can be reached on (571)-272-0864. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Khatol Shahnan-Shah, BS, Pharm, MS

Biotechnology Patent Examiner

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March 6, 2005



RODNEY P. SWARTZ, PH.D.  
PRIMARY EXAMINER